

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| IN RE: AT&T CORPORATION, Complainant, v. QWEST CORPORATION, Respondent. | DOCKET NO. FCU-02-2 |
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ORDER GRANTING REQUEST FOR CONFIDENTIALITY

(Issued August 26, 2002)

On February 27, 2002, AT&T Corporation (AT&T) filed with the Utilities Board (Board) a letter alleging that Qwest Corporation (Qwest) may have entered into interconnection agreements with some competitive local exchange carriers (CLECs), agreements that were not filed with the Board as required by 47 U.S.C. §§ 251(c) and 252(a)-(i).

On April 1, 2002, the Board issued an order docketing AT&T's complaint for investigation and establishing a briefing schedule to determine the scope of the obligation to file interconnection agreements with the Board. The parties filed briefs pursuant to that schedule, and on May 29, 2002, the Board issued an order defining the scope of the obligation to file interconnection agreements, applying that definition

to certain agreements already filed in this docket, and requiring that Qwest either request a hearing in this matter or file any other agreements it may have entered into that are interconnection agreements as defined by the Board.

On July 29, 2002, Qwest submitted a compliance filing consisting of a descriptive pleading and two exhibits. Exhibit A consisted of 11 previously-unfiled agreements that, in Qwest's opinion, fall within the Board's definition of an interconnection agreement. Those agreements are currently being processed as negotiated interconnection agreements pursuant to the Board rules and procedures.

Exhibit B to Qwest's compliance filing consisted of 19 other previously-unfiled agreements between Qwest and a CLEC. Qwest asserted that the Exhibit B agreements are not encompassed within the Board's definition of an interconnection agreement and therefore do not have to be filed with the Board. Qwest stated it was filing these agreements "in the interests of full disclosure, and in order that the Board may examine Qwest's evaluations of the Order's standards to each of the CLEC agreements" Each of the agreements includes a provision requiring the parties to treat the agreement as confidential and Qwest filed a request that the Exhibit B agreements be treated as confidential records until such time as the Board determines that one or more of the agreements constitute an interconnection agreement. Qwest supported the request with an affidavit by a corporate officer, stating that the information constitutes confidential trade secrets under Iowa Code § 550.2(4) (2001). The confidential materials were sealed in a separate envelope

and marked confidential. Qwest cited Iowa Code §§ 22.7(3) and 22.7(6) as authority for confidential treatment of the information.

On August 6, 2002, the Board issued an order in this docket that, among other things, required that any parties to this docket that intended to file comments concerning the status of the Exhibit B agreements must file those comments on or before August 19, 2002. As of August 22, 2002, no comments have been filed, although on August 8, 2002, WorldCom filed a request for confidential treatment of four Exhibit B agreements and Qwest filed a second request for confidential treatment relating to certain additional information regarding the Exhibit B agreements (missing pages that were being filed that date, for example).

Board staff has reviewed the Exhibit B agreements and, based on that review, the Board concludes that the Exhibit B agreements are not negotiated interconnection agreements under 47 U.S.C. § 251 and need not be published or made available to the public pursuant to the federal statute.

Iowa Code § 22.7(6) provides confidential treatment for public records which are reports to government agencies and which, if released, would give advantage to competitors and serve no public purpose. The filed data is a report to a government agency. The application and affidavit support a finding that the information, if released, would provide an advantage to competitors. The release of the information would serve no public purpose. This prong of the § 22.7(6) exception is satisfied when substantial public benefits result from confidential treatment and no tangible public benefits result from release. The Board recognizes that utilities will be more

forthcoming if information of this nature is held confidential. For these reasons, the Board finds the confidential information filed by Qwest on July 29, 2002, and identified as the Exhibit B agreements should be held confidential under the provisions of Iowa Code § 22.7(6).

Because the Board has concluded that the information should be held confidential pursuant to Iowa Code § 22.7(6), the Board will not address the claim that the information should be held confidential pursuant to Iowa Code § 22.7(3). Furthermore, because the Board is granting Qwest's request that all of the Exhibit B agreements be treated as confidential, the requests for confidentiality filed by WorldCom and Qwest on August 8, 2002, are moot.

IT IS THEREFORE ORDERED:

1. The "Request for Confidentiality" filed by Qwest Corporation on July 29, 2002, is granted with respect to the Exhibit B agreements filed by Qwest on that date, pursuant to the provisions of Iowa Code § 22.7(6).
2. The information shall be held confidential by the Board subject to the provisions of 199 IAC 1.9(8)"b"(3).

3. The requests for confidentiality filed by WorldCom and Qwest on August 8, 2002, are denied because they are moot.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 26th day of August, 2002.